

TITLE 329 SOLID WASTE MANAGEMENT BOARD

PROPOSED RULE AS PRELIMINARILY ADOPTED

LSA Document #00-47(2)

DIGEST

The Indiana Department of Environmental Management (IDEM) has opened the following rules in Title 329 of the Indiana Administrative Code pursuant to comments received under IC 13-14-9.5: 329 IAC 1-1, 329 IAC 12-2, and 329 IAC 13-3. This rulemaking is required pursuant to IC 13-14-9.5, which provides for the expiration and readoption of administrative rules. A rule that was adopted under a provision of IC 13 and was in effect on December 31, 1995, expires not later than January 1, 2002. All rules adopted after that date under IC 13-14-9, with some exceptions listed in IC 13-14-9.5-1, expire on January 1 of the seventh year after the year in which each rule takes effect. The First Notice of Comment Period and Continuation of First Notice of Comment Period opened all rules required to be opened in Title 329 for readoption, regardless of their initial effective date. Other comments received are being included and considered within other currently existing rulemakings. (See Summary/Response To Comments from the First Comment Period, 24 IR 169)

Rules being readopted in this rulemaking are shown, in their entirety, as proposed rules. Minor changes have been made to update the rules. Rules not commented on during the First Notice of Comment Period or the Continuation of First Notice have been readopted by publication of a Notice of Readoption in the Indiana Register (24 IR 1518) pursuant to IC 13-14-9.5-4(c). Effective thirty (30) days after filing with the secretary of state.

HISTORY

First Notice of Comment Period: March 1, 2000, *Indiana Register* (23 IR 1491).

Continuation of First Notice Period: May 1, 2000, *Indiana Register* (23 IR 2138).

Second Notice of Comment Period and Notice of First Hearing: October 1, 2000, *Indiana Register* (24 IR 169).

Date of First Hearing: November 21, 2000; continued to January 16, 2001.

Notice of Second Hearing: April, 1, 2001, *Indiana Register* (24 IR 2252).

Date of Second Hearing: May 15, 2001.

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SECTION 1. 329 IAC 1-1-1 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

329 IAC 1-1-1 Applicability of rule

Authority: IC 13-17-3; IC 13-14-8
Affected: IC 13-17-3

Sec. 1. This rule (329 IAC 1-1) is applicable to all of Title 329 IAC. *(Solid Waste Management Board; 329 IAC 1-1-1; filed May 31, 1988, 2:42 p.m.: 11 IR 3199)*

SECTION 2. 329 IAC 1-1-2 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

329 IAC 1-1-2 Severability

Authority: IC 13-17-3; IC 13-14-8
Affected: IC 13-17-3; IC 13-14-8

Sec. 2. If any provision of these rules (329 IAC) or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect any other provision or application of these rules (329 IAC) which can be given effect without the invalid provision or application. *(Solid Waste Management Board; 329 IAC 1-1-2; filed May 31, 1988, 2:42 p.m.: 11 IR 3200)*

SECTION 3. 329 IAC 1-1-3 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

329 IAC 1-1-3 Savings clause

Authority: IC 13-17-3; IC 13-14-8
Affected: IC 13-17-3; IC 13-14-8

Sec. 3. The repeal and reenactment in this Title (329 IAC) of any rule previously the responsibility of the Solid Waste Management Board, the Environmental Management Board, or the Stream Pollution Control Board shall not have the effect to release or extinguish any penalty or forfeiture incurred under the same, and such previous rule shall be treated as still remaining on in force for the purpose of sustaining any proper action, or prosecution for the enforcement of such penalty, forfeiture or liability. *(Solid Waste Management Board; 329 IAC 1-1-3; filed May 31, 1988, 2:42 p.m.: 11 IR 3200)*

SECTION 4. 329 IAC 1-1-4 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

329 IAC 1-1-4 Reference to Federal Acts

Authority: IC 13-17-3; IC 13-14-8

Affected: IC 13-17-3; IC 13-14-8

Sec. 4. (a) Unless otherwise indicated, references in these rules (329 IAC) to the Resource Conservation and Recovery Act (RCRA) shall mean the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, by the Hazardous and Solid Waste Amendments of 1984, as amended, 4 U.S.C. § 6901, et seq. Unless otherwise indicated, references in these rules (329 IAC) to the Comprehensive Environmental Response, Compensation and Liability Act (CERLA) shall mean the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, as amended, 42 U.S.C. § 9601, et seq. Unless otherwise indicated, references in these rules (329 IAC) to the Toxic Substances Control Act as amended by the Asbestos Hazard Emergency Response Act of 1986, as amended, 15 U.S.C. § 2601 et seq.

(b) Unless otherwise indicated, as in ~~329 IAC 3-1-6~~ **329 IAC 3.1**, references to the Code of Federal regulation (CFR) shall mean the 1987 version. (*Solid Waste Management Board; 329 IAC 1-1-4; filed May 31, 1988, 2:42 p.m.: 11 IR 3200*)

SECTION 5. 329 IAC 12-2-1 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

329 IAC 12-2-1 Definitions

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

Affected: IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 1. In addition to the definitions found in IC 13-11-2, the definitions in this rule apply only to this article. (*Solid Waste Management Board; 329 IAC 12-2-1; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1952*)

SECTION 6. 329 IAC 12-2-2 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

329 IAC 12-2-2 "Access road" defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

Affected: IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 2. "Access road" means a road that leads to the entrance of a solid waste management activity, normally a county, state, or federal highway. (*Solid Waste Management Board; 329 IAC 12-2-2; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1952*)

SECTION 7. 329 IAC 12-2-2.1 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

329 IAC 12-2-2.1 "Accredited examination" defined

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-15-10-4; IC 13-19-3-1; IC 13-19-3-2

Affected: IC 13-15-10; IC 36-9-30

Sec. 2.1. "Accredited examination" means a written examination accredited by the commissioner for the purposes of testing individuals seeking to become certified as solid waste facility operators. (*Solid Waste Management Board; 329 IAC 12-2-2.1; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1479*)

SECTION 8. 329 IAC 12-2-2.2 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

329 IAC 12-2-2.2 "Accredited examination provider" defined

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-15-10-4; IC 13-19-3-1; IC 13-19-3-2

Affected: IC 13-15-10; IC 36-9-30

Sec. 2.2. "Accredited examination provider" means a person or a postsecondary learning institution that provides an accredited examination for the purpose of certifying operators in accordance with 329 IAC 12-7 and 329 IAC 12-8. (*Solid Waste Management Board; 329 IAC 12-2-2.2; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1479*)

SECTION 9. 329 IAC 12-2-2.3 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

329 IAC 12-2-2.3 "Accredited training course" defined

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-15-10-4; IC 13-19-3-1; IC 13-19-3-2
Affected: IC 13-15-10; IC 36-9-30

Sec. 2.3. "Accredited training course" means a course accredited by the commissioner for the purposes of providing solid waste facility operator training for recertification. (*Solid Waste Management Board; 329 IAC 12-2-2.3; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1479*)

SECTION 10. 329 IAC 12-2-2.4 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

329 IAC 12-2-2.4 "Accredited training course provider" defined

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-15-10-4; IC 13-19-3-1; IC 13-19-3-2
Affected: IC 13-15-10; IC 36-9-30

Sec. 2.4. "Accredited training course provider" means a person or a postsecondary learning institution that provides an accredited training course for the purpose of recertifying operators in accordance with 329 IAC 12-7 and 329 IAC 12-9. (*Solid Waste Management Board; 329 IAC 12-2-2.4; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1480*)

SECTION 11. 329 IAC 12-2-4 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

329 IAC 12-2-4 "Base flood" defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10
Affected: IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 4. "Base flood" means a flood that has a one percent (1%) or greater chance of recurring in any year or a flood of a magnitude equaled or exceeded once in one hundred (100) years, on the average, over a significantly long period. In any given one hundred (100) year interval, such a flood may not occur or more than one (1) such flood may occur. (*Solid Waste Management Board; 329 IAC 12-2-4; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1953*)

SECTION 12. 329 IAC 12-2-5 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

329 IAC 12-2-5 "Board" defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10
Affected: IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 5. "Board" means the solid waste management board. (*Solid Waste Management Board; 329 IAC 12-2-5; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1953*)

SECTION 13. 329 IAC 12-2-5.1 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

329 IAC 12-2-5.1 "Certificate" defined

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-15-10-4; IC 13-19-3-1; IC 13-19-3-2
Affected: IC 13-15-10; IC 36-9-30

Sec. 5.1. "Certificate" means a document issued by the commissioner to an individual meeting the testing requirements of 329 IAC 12-7 and 329 IAC 12-8. (*Solid Waste Management Board; 329 IAC 12-2-5.1; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1480*)

SECTION 14. 329 IAC 12-2-5.2 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

329 IAC 12-2-5.2 "Certified operator" defined

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-15-10-4; IC 13-19-3-1; IC 13-19-3-2
Affected: IC 13-15-10; IC 36-9-30

Sec. 5.2. "Certified operator" means an individual:

- (1) with responsibility for the daily operation of the facility; and
- (2) who holds a current certificate of training issued by the commissioner.

(Solid Waste Management Board; 329 IAC 12-2-5.2; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1480)

SECTION 15. 329 IAC 12-2-6 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

329 IAC 12-2-6 "Collection container system" defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10
Affected: IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 6. "Collection container system" means a group of containers for solid waste collection from noncommercial, nonindustrial, and noninstitutional sources, and made available for use by the general public such as a county wide collection box system. *(Solid Waste Management Board; 329 IAC 12-2-6; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1953)*

SECTION 16. 329 IAC 12-2-11.1 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

329 IAC 12-2-11.1 "Facility" defined

Authority: IC 13-14-8-7; IC 13-15-10-4; IC 13-19-3-1; IC 13-19-3-2
Affected: IC 13-15-10; IC 25-31; IC 36-9-30

Sec. 11.1. "Facility" may consist of one (1) or more permitted processing, storage, disposal, or operational units used for processing, storing in conjunction with processing or disposal, or disposing of solid waste. The term includes:

- (1) all conterminous land and structures related to the permit;
- (2) other appurtenances related to the permit; and
- (3) improvements on the land related to the permit.

(Solid Waste Management Board; 329 IAC 12-2-11.1; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1480)

SECTION 17. 329 IAC 12-2-13 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

329 IAC 12-2-13 "Generating facility" defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10
Affected: IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 13. "Generating facility" ~~means any person or site, at, on, or by which one (1) or more solid wastes are generated, such as a large manufacturing plant that may have more than one (1) source of solid waste at the plant location. The term does not include hazardous waste generator as regulated by 329 IAC 3.1.~~ **has the meaning as set forth in 329 IAC 11-2-12.** *(Solid Waste Management Board; 329 IAC 12-2-13; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1954)*

SECTION 18. 329 IAC 12-2-15 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

329 IAC 12-2-15 "Grading" defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10
Affected: IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 15. "Grading" means the contouring of land so that surface water flow and erosion are controlled according to a predetermined plan. *(Solid Waste Management Board; 329 IAC 12-2-15; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1954)*

SECTION 19. 329 IAC 12-2-16 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

329 IAC 12-2-16 "Ground water" defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10
Affected: IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 16. "Ground water" means water below the land surface in the zone of saturation. (*Solid Waste Management Board; 329 IAC 12-2-16; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1954*)

SECTION 20. 329 IAC 12-2-18 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

329 IAC 12-2-18 "Incinerator" defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10
Affected: IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 18. "Incinerator" has the meaning set forth in 329 IAC 11-2-16. (*Solid Waste Management Board; 329 IAC 12-2-18; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1954*)

SECTION 21. 329 IAC 12-2-21 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

329 IAC 12-2-21 "Infectious waste incinerator" defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10
Affected: IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 21. "Infectious waste incinerator" has the meaning set forth in 329 IAC 11-2-19. (*Solid Waste Management Board; 329 IAC 12-2-21; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1955*)

SECTION 22. 329 IAC 12-2-21.1 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

329 IAC 12-2-21.1 "Interim operator" defined

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-15-10-4; IC 13-19-3-1; IC 13-19-3-2
Affected: IC 13-15-10; IC 36-9-30

Sec. 21.1. "Interim operator" means an individual:

- (1) with responsibility for the daily operation of the facility; and
- (2) that does not yet hold a current certificate issued by the commissioner.

(*Solid Waste Management Board; 329 IAC 12-2-21.1; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1480*)

SECTION 23. 329 IAC 12-2-24 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

329 IAC 12-2-24 "On-site road" defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10
Affected: IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 24. "On-site road" means a road for the passage of vehicles from a solid waste management activity entrance to the activity area. (*Solid Waste Management Board; 329 IAC 12-2-24; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1955*)

SECTION 24. 329 IAC 12-2-27 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

329 IAC 12-2-27 "Operating personnel" defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10
Affected: IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 27. "Operating personnel" means persons necessary to properly operate a solid waste management activity. (*Solid Waste Management Board; 329 IAC 12-2-27; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1955*)

SECTION 25. 329 IAC 12-2-27.1 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

329 IAC 12-2-27.1 “Operator” defined

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-15-10-4; IC 13-19-3-1; IC 13-19-3-2
Affected: IC 13-15-10; IC 36-9-30

Sec. 27.1. “Operator” means the person or persons responsible for the overall operation of a facility or part of a facility. (*Solid Waste Management Board; 329 IAC 12-2-27.1; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1480*)

SECTION 26. 329 IAC 12-2-27.2 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

329 IAC 12-2-27.2 “Owner” defined

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-15-10-4; IC 13-19-3-1; IC 13-19-3-2
Affected: IC 13-15-10; IC 36-9-30

Sec. 27.2. “Owner” means the person who owns a facility or part of a facility. (*Solid Waste Management Board; 329 IAC 12-2-27.2; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1480*)

SECTION 27. 329 IAC 12-2-30 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

329 IAC 12-2-30 “Pollution control waste” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10
Affected: IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 30. “Pollution control waste” includes liquid, solid, semisolid, or gaseous waste generated as a direct or indirect result from the removal of contaminants from air, water, or land that may include, but is not limited to, such waste as water and wastewater treatment sludges, baghouse dust, scrubber sludges, chemical spills, or remedial activity clean-up wastes. (*Solid Waste Management Board; 329 IAC 12-2-30; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1956*)

SECTION 28. 329 IAC 12-2-31 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

329 IAC 12-2-31 “Processing” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10
Affected: IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 31. “Processing” has the meaning set forth in 329 IAC 11-2-30. (*Solid Waste Management Board; 329 IAC 12-2-31; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1956*)

SECTION 29. 329 IAC 12-2-31.5 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

329 IAC 12-2-31.5 “Recertification” defined

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-15-10-4; IC 13-19-3-1; IC 13-19-3-2
Affected: IC 13-15-10; IC 36-9-30

Sec. 31.5. “Recertification” means the procedures under 329 IAC 12-7 and 329 IAC 12-9 to renew a certification for a certified operator meeting the applicable training requirements. (*Solid Waste Management Board; 329 IAC 12-2-31.5; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1480*)

SECTION 30. 329 IAC 12-2-33 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

329 IAC 12-2-33 “Registered professional engineer” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10
Affected: IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 33. “Registered professional engineer” means a professional engineer registered by the state of Indiana under IC 25-31. (*Solid Waste Management Board; 329 IAC 12-2-33; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1956*)

SECTION 31. 329 IAC 12-2-35 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

329 IAC 12-2-35 "Residue" defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

Affected: IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 35. "Residue" has the meaning set forth in 329 IAC 11-2-33. (*Solid Waste Management Board; 329 IAC 12-2-35; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1956*)

SECTION 32. 329 IAC 12-2-36 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

329 IAC 12-2-36 "Resource recovery" defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

Affected: IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 36. "Resource recovery" has the meaning set forth in 329 IAC 11-2-34. (*Solid Waste Management Board; 329 IAC 12-2-36; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1956*)

SECTION 33. 329 IAC 12-2-38 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

329 IAC 12-2-38 "Salvaging" defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

Affected: IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 38. "Salvaging" means the controlled and organized removal of materials from solid waste for utilization. (*Solid Waste Management Board; 329 IAC 12-2-38; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1956*)

SECTION 34. 329 IAC 12-2-39 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

329 IAC 12-2-39 "Scavenging" defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

Affected: IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 39. "Scavenging" means the uncontrolled and unauthorized removal of materials from solid waste. (*Solid Waste Management Board; 329 IAC 12-2-39; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1956*)

SECTION 35. 329 IAC 12-2-41 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

329 IAC 12-2-41 "Site" defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

Affected: IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 41. "Site" means the land area on which the registered solid waste management activity is situated. (*Solid Waste Management Board; 329 IAC 12-2-41; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1957*)

SECTION 36. 329 IAC 12-2-42 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

329 IAC 12-2-42 "Sludge" defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

Affected: IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 42. "Sludge" means any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant. (*Solid Waste Management Board; 329 IAC 12-2-42; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1957*)

SECTION 37. 329 IAC 12-2-44 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

329 IAC 12-2-44 "Solid waste facility" or "facility" defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10
Affected: IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 44. "Solid waste facility" or "facility" means all contiguous land and structures, other appurtenances, and improvements on the land used for processing, storing in conjunction with processing or disposal, or disposing of solid waste and may consist of several processing, storage, or disposal operational units, for example, one (1) or more landfills, surface impoundments, or combinations thereof. (*Solid Waste Management Board; 329 IAC 12-2-44; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1957*)

SECTION 38. 329 IAC 12-2-45 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

329 IAC 12-2-45 "Solid waste land disposal facility" defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10
Affected: IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 45. "Solid waste land disposal facility" has the meaning set forth in 329 IAC 10-2-176. (*Solid Waste Management Board; 329 IAC 12-2-45; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1957*)

SECTION 39. 329 IAC 12-2-46 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

329 IAC 12-2-46 "Solid waste management" defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10
Affected: IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 46. "Solid waste management" means the systematic administration of activities that provide for the collection, source separation, storage, transportation, transfer, processing, treatment, or disposal of solid waste. (*Solid Waste Management Board; 329 IAC 12-2-46; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1957*)

SECTION 40. 329 IAC 12-2-47 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

329 IAC 12-2-47 "Solid waste processing facility" defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10
Affected: IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 47. "Solid waste processing facility" has the meaning set forth in 329 IAC 11-2-43. (*Solid Waste Management Board; 329 IAC 12-2-47; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1958*)

SECTION 41. 329 IAC 12-2-49 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

329 IAC 12-2-49 "Surface impoundment" defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10
Affected: IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 49. (a) "Surface impoundment" means a facility or part of a facility that:

- (1) is a natural topographic depression, manmade excavation, or diked area formed primarily of earthen materials, although it may be lined with manmade materials;
- (2) holds or is designed to hold an accumulation of liquid wastes or wastes containing free liquids; and
- (3) is not an injection well.

(b) Examples of surface impoundments may include the following:

- (1) Holding, storage, settling, and aeration pits.
- (2) Holding, storage, settling, and aeration ponds.
- (3) Holding, storage, settling, and aeration lagoons.

(*Solid Waste Management Board; 329 IAC 12-2-49; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1958*)

SECTION 42. 329 IAC 12-2-50 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

329 IAC 12-2-50 "Surface water" defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

Affected: IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 50. "Surface water" ~~means water present on the surface of the earth, including:~~

~~(1) streams;~~

~~(2) lakes;~~

~~(3) ponds;~~

~~(4) rivers;~~

~~(5) swamps;~~

~~(6) marshes; or~~

~~(7) rainwater present on the earth.~~ **has the meaning set forth in 329 IAC 11-2-46.**

(Solid Waste Management Board; 329 IAC 12-2-50; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1958)

SECTION 43. 329 IAC 12-2-52 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

329 IAC 12-2-52 "Transfer station" defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

Affected: IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 52. "Transfer station" has the meaning set forth in 329 IAC 11-2-47. *(Solid Waste Management Board; 329 IAC 12-2-52; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1959)*

SECTION 44. 329 IAC 12-2-54 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

329 IAC 12-2-54 "Vector" defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

Affected: IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 54. "Vector" means any animal capable of harboring and transmitting micro-organisms from one (1) animal to another or to a human. *(Solid Waste Management Board; 329 IAC 12-2-54; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1959)*

SECTION 45. 329 IAC 12-3-1 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

329 IAC 13-3-1 Applicability

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30; 40 CFR 261; 40 CFR 761.20(e)

Sec. 1. (a) The department presumes that used oil is to be recycled unless a used oil handler disposes of used oil or sends used oil for disposal. Except as provided in section 2 of this rule, this article applies to used oil, and to materials identified in this section as being subject to regulation as used oil, whether or not the used oil or material exhibits any characteristics of hazardous waste identified in 40 CFR 261 Subpart C.

(b) Mixtures of used oil and hazardous waste must be handled as follows:

(1) For mixtures of used oil with a listed hazardous waste, the following shall apply:

(A) Mixtures of used oil and hazardous waste that is listed in 40 CFR 261 Subpart D are subject to regulation as hazardous waste under 329 IAC 3.1 rather than as used oil under this article.

(B) Used oil containing more than one thousand (1,000) parts per million total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in 40 CFR 261 Subpart D. Persons may rebut this presumption by demonstrating that the used oil does not contain hazardous waste. For example, this may be done by using an analytical method from EPA publication SW-846, Third Edition, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in 40 CFR 261 Appendix VIII. EPA publication SW-846, Third Edition, is available from the Government Printing Office,

Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, (202) 783-3238. Request document number 955-001-00000-1. The rebuttable presumption does not apply to the following:

- (i) Metalworking oils or fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in 329 IAC 13-4-5(c), to reclaim metalworking oils or fluids. The presumption does apply to metalworking oils or fluids if such oils or fluids are recycled in any other manner or disposed.
- (ii) Used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

(2) Used oil mixed with characteristic hazardous waste identified in 40 CFR 261 Subpart C are subject to 329 IAC 3.1.

(3) Mixtures of used oil and conditionally exempt small quantity generator hazardous waste regulated under 40 CFR 261.5 are subject to regulation as used oil under this article.

(c) Materials containing or otherwise contaminated with used oil must be handled as follows:

(1) Except as provided in subdivision (2), materials containing or otherwise contaminated with used oil from which the used oil has been properly drained or removed to the extent possible such that no visible signs of free-flowing oil remain in or on the material:

- (A) are not used oil and thus not subject to this article;
- (B) if applicable, are subject to the hazardous waste regulations under 329 IAC 3.1; and
- (C) if applicable, are subject to the ~~special~~ **industrial** waste regulations under 329 IAC 10.

(2) Materials containing or otherwise contaminated with used oil that are burned for energy recovery are subject to regulation as used oil under this article.

(3) Used oil drained or removed from materials containing or otherwise contaminated with used oil is subject to regulation as used oil under this article.

(d) Mixtures of used oil with products must be handled as follows:

(1) Except as provided in subdivision (2), mixtures of used oil and fuels or other fuel products are subject to regulation as used oil under this article.

(2) Mixtures of used oil and diesel fuel mixed on-site by the generator of the used oil for use in the generator's own vehicles are not subject to this article once the used oil and diesel fuel have been mixed. Prior to mixing, the used oil is subject to the requirements of 329 IAC 13-4.

(e) Materials derived from used oil must be handled as follows:

(1) Materials that are reclaimed from used oil that are used beneficially and are not burned for energy recovery or used in a manner constituting disposal, such as re-refined lubricants, are:

- (A) not used oil and thus are not subject to this article; and
- (B) not solid wastes and are thus not subject to the hazardous waste regulations under 329 IAC 3.1 as provided in 40 CFR 261.3(c)(2)(A).

(2) Materials produced from used oil that are burned for energy recovery, such as used oil fuels, are subject to regulation as used oil under this article.

(3) Except as provided in subdivision (4), materials derived from used oil that are disposed of or used in a manner constituting disposal are:

- (A) not used oil and thus are not subject to this article; and
- (B) are solid wastes and thus are subject to:
 - (i) if applicable, the hazardous waste regulations under 329 IAC 3.1 if the materials are listed or identified as hazardous waste; and
 - (ii) if applicable, the special waste regulations under 329 IAC 10.

(4) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products are not subject to this article.

(f) Wastewater, the discharge of which is subject to regulation under either Section 402 or 307(b) of the Clean Water Act, including wastewaters at facilities that have eliminated the discharge of wastewater, contaminated with de

minimis quantities of used oil are not subject to the requirements of this article. As used in this subsection, "de minimis quantities of used oils" means small spills, leaks, or drippings from pumps, machinery, pipes, and other similar equipment during normal operations or small amounts of oil lost to the wastewater treatment system during washing or draining operations. This exception will not apply if the used oil is discarded as a result of abnormal manufacturing operations resulting in substantial leaks, spills, or other releases, or to used oil recovered from wastewaters.

(g) Used oil introduced into crude oil pipelines or a petroleum refining facility must be handled as follows:

- (1) Used oil mixed with crude oil or natural gas liquids, such as in a production separator or crude oil stock tank, for insertion into a crude oil pipeline is exempt from the requirements of this article. The used oil is subject to the requirements of this article prior to the mixing of used oil with crude oil or natural gas liquids.
- (2) Mixtures of used oil and crude oil or natural gas liquids containing less than one percent (1%) used oil that are being stored or transported to a crude oil pipeline or petroleum refining facility for insertion into the refining process at a point prior to crude distillation or catalytic cracking are exempt from the requirements of this article.
- (3) Used oil that is inserted into the petroleum refining facility process before crude distillation or catalytic cracking without prior mixing with crude oil is exempt from the requirements of this article provided that the used oil constitutes less than one percent (1%) of the crude oil feed to any petroleum refining facility process unit at any given time. Prior to insertion into the petroleum refining facility process, the used oil is subject to the requirements of this article.
- (4) Except as provided in subdivision (5), used oil that is introduced into a petroleum refining facility process after crude distillation or catalytic cracking is exempt from the requirements of this article only if the used oil meets the specification of section 2 of this rule. Prior to insertion into the petroleum refining facility process, the used oil is subject to the requirements of this article.
- (5) Used oil that is incidentally captured by a hydrocarbon recovery system or wastewater treatment system as an article of routine process operations at a petroleum refining facility and inserted into the petroleum refining facility process is exempt from the requirements of this article. This exemption does not extend to used oil that is intentionally introduced into a hydrocarbon recovery system, such as by pouring collected used oil into the wastewater treatment system.
- (6) Tank bottoms from stock tanks containing exempt mixtures of used oil and crude oil or natural gas liquids are exempt from the requirements of this article.

(h) Used oil produced on vessels from normal shipboard operations is not subject to this article until it is transported ashore.

(i) In addition to the requirements of this article, marketers and burners of used oil who market used oil containing any quantifiable level of polychlorinated biphenyls (PCBs) are subject to the requirements found at 40 CFR 761.20(e). (*Solid Waste Management Board; 329 IAC 13-3-1; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1494*)

SECTION 46. 329 IAC 12-3-2 IS BEING CONSIDERED FOR READOPTED AS FOLLOWS:

329 IAC 13-3-2 Used oil specifications

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30

Sec. 2. Used oil burned for energy recovery, and any fuel produced from used oil by processing, blending, or other treatment, is subject to regulation under this article unless it is shown not to exceed any of the allowable levels of the constituents and properties in the specification shown in Table 1. Once used oil that is to be burned for energy recovery has been shown not to exceed any specification and the person making that showing complies with 329 IAC 13-9-3, 329 IAC 13-9-4, and 329 IAC 13-9-5(b), the used oil is no longer subject to this article. Table 1-Used Oil not Exceeding any Specification Level is not Subject to this Article when Burned for Energy Recovery¹

<u>Constituent or Property</u>	<u>Allowable Level</u>
Arsenic	5 ppm maximum
Cadmium	2 ppm maximum

Chromium	10 ppm maximum
Lead	100 ppm maximum
Flash point	100 EF minimum
Total halogens	4,000 ppm maximum ²

¹The specification does not apply to mixtures of used oil and hazardous waste that continue to be regulated as hazardous waste (See section 1(b) of this rule.).

²Used oil containing more than one thousand (1,000) parts per million total halogens is presumed to be a hazardous waste under the rebuttable presumption provided under section 1(b) of this rule. Such used oil is subject to 40 CFR 266 Subpart H rather than this article when burned for energy recovery unless the presumption of mixing can be successfully rebutted.

Note: Applicable standards for the burning of used oil containing PCBs are imposed by 40 CFR 761.20(e)

(Solid Waste Management Board; 329 IAC 13-3-2; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1495)

SECTION 47. 329 IAC 12-3-3 IS BEING CONSIDERED FOR READOPTED AS FOLLOWS:

329 IAC 13-3-3 Prohibitions

Authority: IC 13-14-8-1; IC 13-14-8-2; IC 13-19-3

Affected: IC 13-11-2; IC 13-14; IC 13-19; IC 13-20; IC 13-22; IC 13-23; IC 13-30; 40 CFR 260.10; 40 CFR 264; 40 CFR 265

Sec. 3. (a) Used oil shall not be managed in surface impoundments or waste piles unless the units are subject to regulation under 40 CFR 264 or 40 CFR 265.

(b) The use of used oil as a dust suppressant is prohibited.

(c) Off-specification used oil fuel may be burned for energy recovery in only the following devices:

(1) Industrial furnaces identified in 40 CFR 260.10.

(2) Boilers, as defined in 40 CFR 260.10, that are identified as any of the following:

(A) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes.

(B) Utility boilers used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale.

(C) Used oil-fired space heaters provided that the burner meets the provisions of 329 IAC 13-4-4.

(3) Hazardous waste incinerators subject to regulation under 40 CFR 264 Subpart O or 40 CFR 265.

(Solid Waste Management Board; 329 IAC 13-3-3; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1496)

SECTION 48. THE FOLLOWING ARE REPEALED: 329 IAC 12-2-3, 329 IAC 12-2-7, 329 IAC 12-2-8, 329 IAC 12-2-9, 329 IAC 12-2-10, 329 IAC 12-2-11, 329 IAC 12-2-12, 329 IAC 12-2-14, 329 IAC 12-2-17, 329 IAC 12-2-19, 329 IAC 12-2-20, 329 IAC 12-2-22, 329 IAC 12-2-23, 329 IAC 12-2-25, 329 IAC 12-2-26, 329 IAC 12-2-28, 329 IAC 12-2-29, 329 IAC 12-2-32, 329 IAC 12-2-34, 329 IAC 12-2-37, 329 IAC 12-2-40, 329 IAC 12-2-43, 329 IAC 12-2-48, 329 IAC 12-2-51, 329 IAC 12-2-53, 329 IAC 12-2-55, 329 IAC 12-2-56, 329 IAC 12-2-57, 329 IAC 12-2-58, 329 IAC 12-2-59, 329 IAC 12-2-60, 329 IAC 12-2-61, 329 IAC 12-2-62.